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Compilation on Malaysia

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1–2]

2. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health was concerned about the limited number of international human rights treaties that Malaysia had ratified and the reservations that it had introduced, some of them of a general nature, which seriously undermined the nature and scope of the obligations under those treaties.[3]

3. The Committee on the Elimination of Discrimination against Women encouraged Malaysia to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.[4]

4. The United Nations country team stated that accession to the International Covenant on Economic, Social and Cultural Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights would bolster the transition of Malaysia to developed country status. The country team noted that Malaysia could consider ratifying the International Covenant

on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture in the immediate future.[5]

5. The United Nations country team urged Malaysia to outline clear steps within a reasonable time frame for its accession to the Optional Protocols to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and for the withdrawal of its reservations to articles 9 (2) and 16 (1) (a), (c), (f) and (g) of the Convention on the Elimination of All Forms of Discrimination against Women, articles 2, 7, 14, 28 (1) (a) and 37 of the Convention on the Rights of the Child, and articles 3 (b) and (e), 5 (2) and 30 of the Convention on the Rights of Persons with Disabilities.[6]

6. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that the Government accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and ensure the country was in full compliance with international refugee protection standards.[7]

7. The Committee on the Elimination of Discrimination against Women recommended that Malaysia ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[8]

8. The Committee on the Elimination of Discrimination against Women recommended that Malaysia ratify the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Domestic Workers Convention, 2011 (No. 189).[9]

9. The United Nations Educational, Scientific and Cultural Organization (UNESCO) stated that Malaysia should be strongly encouraged to ratify the UNESCO Convention against Discrimination in Education. It encouraged Malaysia to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).[10]

10. The United Nations country team noted that 12 special procedure mandate holders had made requests to visit Malaysia. Some of those requests had been pending for a considerable amount of time. The country team encouraged Malaysia to invite them to visit as soon as possible.[11]

11. Malaysia contributed financially to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2015, 2016 and 2017.

III National human rights framework[12]

12. UNESCO noted that, while the federal Constitution of 1957 included provisions on education, it did not explicitly enshrine the right to education.[13]

13. The United Nations country team noted that the Constitution did not include any references to persons or children with disabilities.[14]

14. The Committee on the Elimination of Discrimination against Women reiterated its concern at the continued absence of a definition of discrimination against women in national legislation that was in accordance with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women, and about the courts' narrow interpretation of the prohibition of gender-based discrimination. It recommended that Malaysia adopt a concrete time frame for the adoption of a gender equality act.[15]

15. The same Committee recommended that Malaysia take effective measures to ensure that civil law and sharia law were in full compliance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women at the local, state and federal levels so as to ensure that the rights of all women were legally guaranteed on an equal footing throughout the State.[16]

16. The United Nations country team urged the Government to ensure that the Human Rights Commission of Malaysia was adequately funded and that there was parliamentary discussion of its annual reports.[17]

17. The United Nations country team supported the call for the formation of a parliamentary select committee on human rights, as recommended by the Human Rights Commission of Malaysia.[18]

18. The United Nations country team welcomed the launch by the Government of the national human rights action plan on 1 March 2018. However, it called for the plan to be urgently reviewed and rewritten by human rights experts, to bring it in line with the Universal Declaration of Human Rights and the relevant commitments of the newly elected Government, as reflected in its manifesto.[19]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[20]

19. The Committee on the Elimination of Discrimination against Women recommended that Malaysia adopt a comprehensive strategy with proactive and sustained measures that targeted women and men at all levels of society, including religious and traditional leaders, to eliminate discriminatory stereotypes and patriarchal attitudes concerning the roles and responsibilities of women and men in the family and in society.[21]

20. UNESCO stated that Malaysia should be encouraged to strengthen its efforts to eradicate gender stereotypes in teaching materials, including by reviewing and updating the existing textbooks. Malaysia should also be encouraged to integrate human rights education effectively in its curricula.[22]

21. The Committee on the Elimination of Discrimination against Women recommended that Malaysia amend all provisions of the federal Constitution that denied women equal rights with respect to the transmission of their nationality to their children and foreign spouses.[23]

22. The Special Rapporteur on health stated that discriminatory societal attitudes towards lesbian, gay, bisexual and transgender persons prevailed in Malaysia and had been exacerbated over the past few decades by the use of a stigmatizing rhetoric by politicians, public officials and religious leaders. The criminalization of same-sex conduct and of different forms of gender identity and expression had reinforced negative societal attitudes and led to serious human rights violations of the rights of that group of the population.[24]

23. OHCHR noted with regret the decision by the Malaysian Federal Court to reinstate section 66 of the Negeri Sembilan Sharia Criminal Enactment (1992), which criminalized transgender women on the basis of their appearance and subjected them to fines and up to six months' imprisonment.[25]

B. Civil and political rights

1. Right to life, liberty and security of person[26]

24. The United Nations country team noted that Malaysia still imposed the death penalty for certain offences. As at 21 February 2017, an alarming number of individuals had been sentenced to death. While noting that, under amendments to section 39B of the Dangerous Drugs Act 1952, which had come into force on 15 March 2018, the death penalty for drug trafficking was no longer mandatory, the country team remained concerned about all those who had been sentenced to death prior to that date, who did not benefit from the change in law.[27]

25. The United Nations country team noted that no significant shift had been detected within the police and other law enforcement agencies with regard to upholding human rights.[28] It welcomed the new Government's promise to establish an independent police

complaints and misconduct commission.[29] It recommended that the Government conduct a review of all remand and prison conditions to ensure compliance with the internationally agreed United Nations Standard Minimum Rules for the Treatment of Prisoners.[30]

26. OHCHR expressed serious concern regarding the disappearances of community workers Amri Che Mat and Raymond Keng Joo Koh, and urged Malaysia to urgently investigate the abductions of the two men associated with religious minority groups.[31]

2. Administration of justice, including impunity, and the rule of law[32]

27. The United Nations country team encouraged the Government to take measures to further bolster the independence of the judiciary.[33]

28. It also urged the Government to avoid the revictimization of victims of trafficking and forced labour through improved screening procedures to determine the reasons why individuals lacked documentation.[34]

29. The Committee on the Elimination of Discrimination against Women recommended that Malaysia identify and address the specific obstacles faced by women who were in disadvantaged situations, including migrant women, particularly undocumented migrant women, women held in immigration detention centres, and asylum-seeking and refugee women, so as to ensure that they had access to justice and recourse to effective remedies.[35]

30. The Special Rapporteur in the field of cultural rights noted that particular challenges arose in the light of the country's plural legal systems, including civil courts, sharia courts and indigenous customary courts.[36]

31. The Committee on the Elimination of Discrimination against Women remained concerned about the use of whipping by sharia courts as a form of punishment, whereas the whipping of women was prohibited under the Criminal Procedure Code. The Committee recommended that Malaysia harmonize sharia law with section 289 of the Criminal Procedure Code to prohibit the whipping of women as a form of punishment.[37]

32. OHCHR expressed concern at the entry into force in August 2016 of the National Security Council Act, which gave the Prime Minister sweeping security powers and could restrict civil liberties.[38]

3. Fundamental freedoms and the right to participate in public and political life[39]

33. The Special Rapporteurs on freedom of expression, on the rights to freedom of peaceful assembly and of association, on the situation of human rights defenders, and on the independence of judges and lawyers urged Malaysia to withdraw the Sedition Act of 1948 and to take firm steps towards the effective enjoyment of the right to freedom of expression.[40]

34. The United Nations country team noted that, notwithstanding the announcement on 11 July 2012 that the Sedition Act 1948 would be repealed and replaced by a National Harmony Act, no details of the proposed National Harmony Act had been made public. Individuals alleged to have committed acts of sedition continued to be arrested and charged in court. The country team encouraged the Government to promote freedom of religious expression.[41]

35. UNESCO noted that the Sedition Act 1948, as amended in 2015, and the internal Security Act 1960 continued to be used in the country. Both laws provided for the imprisonment of persons found guilty of uttering or publishing seditious statements or content that could be interpreted as a threat to national security. The Malaysian Printing Presses and Publication Act gave the Minister for Home Affairs power to revoke or suspend a press permit for any period he or she considered desirable.[42]

36. UNESCO encouraged Malaysia to decriminalize defamation and subsequently incorporate it into the Civil Code, in accordance with international standards. It also encouraged it to introduce a freedom of information law in accordance with international standards, to assess the appointment system for the broadcast licensing authority to ensure that it was independent, and to place regulation regarding suspension of media permits under the judiciary.[43]

37. The Special Rapporteur on cultural rights was seriously concerned about the restrictions and sometimes full bans that had been imposed on a number of artistic and cultural practices at the state level in Kelantan, and on certain authors, publishers, filmmakers and artists at the federal level. She called for the repeal of the Sedition Act, for the amendments being made in the Communications and Multimedia Act to be consistent with international standards for freedom of expression and cultural rights, for the repeal or clarification of sections 211 (1) and 233 (1) of the Act, and for the abolition of prior censorship bodies and processes.[44]

38. The Committee on the Elimination of Discrimination against Women recommended that Malaysia fully guarantee the right to freedom of religion or belief, which included the right of individuals to convert from Islam to another religion or belief.[45]

39. The Special Rapporteur on cultural rights regretted reports that Malaysian Shia Muslims had been unable to worship freely, and that they might face obstacles in carrying out rituals that were both cultural and religious.[46]

40. She expressed concern about the emergence of several abduction cases reportedly targeting those associated with religious minorities. She called for every effort to be made to locate the missing persons in question.[47]

41. The United Nations country team expressed concern about the wide scope of and the broad definitions and harsh penalties contained in the anti-"fake news" legislation that had been passed by the Upper House of Parliament on 3 April 2018.[48]

42. The United Nations country team noted that students continued to face disciplinary action for participating in and expressing their views during party political activity.[49]

4. Prohibition of all forms of slavery[50]

43. The Committee on the Elimination of Discrimination against Women remained deeply concerned that Malaysia remained a destination country for trafficking of women and girls, including asylum-seeking and refugee women and girls, for purposes of sexual exploitation, begging, forced labour or forced marriage. It recommended that Malaysia establish a formal procedure throughout the State to promptly identify victims of trafficking and refer them to appropriate services for protection, and train all relevant law enforcement officials on gender-sensitive procedures for interacting with victims of trafficking. It also recommended that Malaysia ensure that victims of trafficking were not punished for violations of immigration laws and that they obtained effective protection; and that it investigate all cases of trafficking in persons, especially women and girls, including cases involving law enforcement officials, and prosecute perpetrators.[51]

44. The Special Rapporteur on trafficking in persons, especially women and children, recommended that Malaysia revise the regulation of employment agencies and implement it stringently, and regularly monitor the activities of those agencies already licensed and take immediate action to revoke their licence and prosecute them where illegal activity involving trafficking in persons had taken place. She also recommended that Malaysia sensitize businesses about human trafficking and encourage them to make and maintain a supply chain free from trafficking, including through the establishment of self-regulatory mechanisms and tools.[52]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[53]

45. The United Nations country team noted that amendments to labour legislation promised as part of the Labour Consistency Plan had not been implemented. It welcomed the new Government's commitment to ensure the rights of workers to organize and to negotiate through collective bargaining, and for workers' rights to be on a par with international standards and in compliance with ILO standards.[54]

46. The ILO Committee of Experts on the Application of Conventions and Recommendations observed that domestic workers continued to be excluded from the scope of the Minimum Wages Order.[55]

47. The Committee on the Elimination of Discrimination against Women reiterated its concern regarding the situation of migrant women employed as domestic workers, who did not enjoy the same legal guarantees as other migrant workers, including in relation to minimum wages, working hours, rest days, leave, freedom of association and social security coverage.[56]

48. The same Committee remained concerned about the persistent pay gap in most occupational categories and the low representation of women in decision-making positions in the private sector. It also regretted the lack of sanctions for the termination of employment on the basis of pregnancy and the lack of a comprehensive law on sexual harassment.[57]

49. The ILO Committee of Experts requested Malaysia to take any necessary measures to further reduce the length of proceedings for the recognition of trade unions.[58]

2. Right to social security[59]

50. The United Nations country team noted the need to increase the number of social workers, to provide them with adequate resources and to professionalize their work. It stated that social workers were greatly needed in many areas of child protection, including social and family-based care, mental health, counselling, support for children with disabilities, diversion of children coming into conflict with the law, probation officers, and help to support alternatives to immigration detention.[60]

51. The United Nations country team stated that the lack of social provision and protection for undocumented persons, both non-citizens and Malaysians, needed to be addressed.[61]

3. Right to an adequate standard of living[62]

52. The United Nations country team commended the Government for the effort made to reduce the incidence of absolute poverty and to reduce income inequalities. It stressed that it was necessary to gather and make available disaggregated data to ensure that pockets of inequality and exclusion were not overlooked.[63]

53. The Special Rapporteur on the right to food recommended that Malaysia ensure that the minimum wage ensured access to an adequate standard of living, including adequate food.[64]

54. The United Nations country team drew particular attention to the recent UNICEF report entitled *Children Without: A study of urban child poverty and deprivation in low-cost flats in Kuala Lumpur*, which showed disturbing trends in malnutrition among urban poor communities and the urgent need to address the issue.[65]

4. Right to health[66]

55. The Special Rapporteur on health recommended that Malaysia ensure adequate, equitable and sustainable financing for health, increase national budget allocations for health and reduce out-of-pocket expenditure, as well as ensuring that the health system was funded progressively through universal contributions, based on individuals' and families' ability to pay, and that it provided exemptions for the poor.[67]

56. The Committee on the Elimination of Discrimination against Women recommended that Malaysia introduce as part of the school curricula comprehensive age-appropriate and human rights-based sexuality education, including information on sexual and reproductive health and responsible sexual behaviour and the importance of concepts such as consent and gender-based violence.[68]

57. The Special Rapporteur on health recommended that Malaysia ensure that barriers to access sexual and reproductive rights of girls and women were removed, including by

providing, regardless of age and marital status, sexual and reproductive health services and comprehensive adequate sexuality education and information.[69]

5. Right to education[70]

58. UNESCO noted that Malaysia had made progress regarding basic skills and literacy. However, the literacy rate remained lower for women than for men.[71]

59. UNESCO also noted that, while primary education had been made compulsory in 2003, there was no legal requirement for lower secondary attendance. Malaysia should be strongly encouraged to update its Education Act and include provisions going beyond primary education, making lower secondary education compulsory, in line with the Incheon Declaration: Education 2030: Towards inclusive and equitable quality education and lifelong learning for all, and the targets in Sustainable Development Goal 4.[72]

60. UNESCO stated that Malaysia should be encouraged to continue to prioritize and facilitate the enrolment of children from rural and remote areas in schools.[73]

61. The Committee on the Elimination of Discrimination against Women was concerned about the high school dropout rates among girls in rural areas.[74]

62. The Special Rapporteur on cultural rights was particularly concerned at reports that in school, some girls had been told by teachers that they had to pay a fine if they came to school unveiled. According to another report, a teacher had said that the girls who covered were her children, but those who did not were not.[75]

63. The United Nations country team noted that the absence of a human rights-based approach to inclusive development was notable in the provision of education, which did not take into account large groups of undocumented and stateless children. The inability of those children to access education impaired their futures and led to future social dislocation.[76]

D. Rights of specific persons or groups

1. Women[77]

64. The Committee on the Elimination of Discrimination against Women welcomed the measures taken to enhance the legal protection of women from gender-based violence, including the amendment of the Domestic Violence Act in 2017.[78]

65. It recommended that Malaysia prohibit all forms of female genital mutilation in its Criminal Code, ensuring that the prohibition could not be overruled by any fatwas or other rulings issued by religious or clerical authorities, as well as in practice, and that it undertake awareness-raising and educational activities aimed at promoting consensus towards the elimination of female genital mutilation.[79]

66. It also recommended that Malaysia criminalize marital rape.[80]

67. It further recommended that Malaysia take effective measures to ensure that perpetrators of rape, including those who raped women with an object or committed incestuous rape, were effectively punished and that they did not evade criminal sanctions by marrying their victims.[81]

68. The Committee was concerned that women continued to be underrepresented in all areas of political and public life, including in Parliament, the cabinet, local government, the judiciary and the diplomatic service, particularly in decision-making positions.[82]

69. It welcomed the legislative amendments to the civil law to end discrimination against women in marriage and in the family and the Federal Court decision of 29 January 2018 in the Indira Gandhi case, in which it had affirmed the jurisdiction of civil courts over matters of Islamic law and actions of Islamic authorities.[83]

70. Nevertheless, the Committee remained concerned that Muslims were covered by Islamic family law, that Muslim women did not have equal rights to men in family and marriage matters, including in their capacity to enter into marriage and to divorce, or enjoy

equal rights with regard to maintenance, custody, guardianship and religious conversion of their children, and inheritance. It was concerned that polygamy was permitted for Muslim men under the Islamic Family Law (Federal Territories) Act 2006 and that the criteria for polygamy had become less restrictive following amendments to the original act of 1984.[84]

2. Children[85]

71. The United Nations country team noted that the lack of adequate information about required documentation meant that some children remained unregistered, especially in remote communities.[86]

72. The United Nations country team commended the Government for introducing the Sexual Offences Against Children Act 2017 and the Child (Amendment) Act 2016, which required the establishment of a registry of convicted perpetrators. It noted that the Child Act 2001 still effectively permitted the sale of children, as it did not criminalize the giving or receiving of payment of expenses for non-bona fide adoptions or of dowries for non-bona fide underage marriages.[87]

73. The ILO Committee of Experts urged Malaysia to take immediate and effective measures to ensure that the use, procuring or offering of a child under 18 years of age, by anyone, for the production of pornography or for pornographic performances was prohibited, as a matter of urgency.[88]

74. The United Nations country team remained concerned that child marriages continued to be officially permitted in Malaysia.[89] The Committee on the Elimination of Discrimination against Women noted that child marriages continued to be permitted under both the Law Reform (Marriage and Divorce) Act and Islamic family law and that the rate of child marriages was increasing.[90] The Special Rapporteur on health recommended that Malaysia ensure that the legal age for marriage was set at 18 years of age, as established in international human rights standards, and do its utmost to eradicate and prevent child marriage and the negative effects it had on the health and well-being of girls.[91]

75. The United Nations country team urged the Government to review current detention policies, which provided that at the age of 12, boys in detention with their mothers be separated from their mothers and placed with adult males.[92]

76. The United Nations country team encouraged the Government to ensure that vulnerable children were protected from child labour.[93] The Special Rapporteur on the right to food recommended that Malaysia assess and address child labour on plantations, including the impact of piecemeal wages and the lack of educational opportunities for the children of undocumented migrant workers.[94] The ILO Committee of Experts urged Malaysia to take effective and time bound measures to protect children of migrant workers from the worst forms of child labour, particularly in palm oil plantations. It also urged Malaysia to take the necessary measures to strengthen the labour inspection system to effectively monitor the implementation of labour laws so as to receive, investigate and address complaints of alleged violations of child labour.[95]

3. Persons with disabilities[96]

77. The United Nations country team recommended replacing the pervasive medical and charitable models of service provision for persons with disabilities by social and rights-based models. It also recommended ensuring the availability and accessibility of high-quality specialists able to conduct early diagnosis and assessments, and providing appropriate interventions for children with disabilities. It further recommended that Malaysia increase the quality and availability of inclusive education within mainstream schools, and eliminate discrimination against children with disabilities by lifting its reservations to the Convention on the Rights of Persons with Disabilities and signing the Optional Protocol thereto.[97]

78. UNESCO stated that Malaysia should be encouraged to develop programmes to strengthen the integration of children with disabilities and refugees in its school system.[98]

79. The Special Rapporteur on health recommended that Malaysia continue developing a system of user-friendly community-based services for children and adults with

developmental and psychosocial disabilities, and ensure that the rights of those persons were respected, promoted and protected in accordance with the standards set by the Convention on the Rights of Persons with Disabilities.[99]

4. Minorities and indigenous peoples[100]

80. The United Nations country team noted that, while indigenous peoples constituted a significant proportion of the population of Malaysia, they might often be overlooked in terms of human rights and sustainable development, and suffer more inequalities as a result. It encouraged the Government to incorporate the principles underlying the United Nations Declaration on the Rights of Indigenous Peoples into the legal and administrative processes. It urged the Government to prioritize indigenous peoples and other vulnerable groups in development planning and budgeting.[101]

81. The Special Rapporteur on health noted that health information was not always accessible in a culturally appropriate manner to the indigenous communities, and that language continued to be a barrier to accessing health-care services for indigenous communities. He also noted that the right to health of indigenous people was threatened by land-use changes caused by development projects linked to logging operations, palm oil plantations and energy-intensive industries in certain parts of the country, particularly in Sabah and Sarawak. He recommended that Malaysia take the necessary measures so that indigenous communities enjoyed their right to health by ensuring access to information and that health services were available, accessible, affordable, adequate and of good quality.[102]

82. Regarding the indigenous peoples in Sabah and Sarawak, the Special Rapporteur on cultural rights noted the more than 400 cases of customary land disputes still awaiting judgment. The task force on that issue that had been announced at the previous universal periodic review was apparently unknown to some stakeholders, who had reported that they had not been approached or consulted about its work to identify and recognize customary lands.[103]

83. She mentioned that she heard accounts of Orang Asli villages being displaced for infrastructure or large-scale development projects, which implied loss of their traditional land.[104]

84. She expressed grave concern about reports of bullying of Orang Asli children in schools, which was contributing to the number of such children dropping out of school.[105]

5. Migrants, refugees, asylum seekers and internally displaced persons[106]

85. UNHCR recommended that the Government enact a legislative and administrative framework for the treatment and protection of refugees and asylum seekers, and establish appropriate mechanisms to receive, register, process and document asylum seekers and refugees. It also recommended that the Government put in place measures to regularize all UNHCR cardholders, permitting their legal temporary stay in Malaysia and access to the legal employment sector, as well as to formal education, health and other public services. UNHCR further recommended that the Government fully respect the principle of non-refoulement, in accordance with customary international law.[107]

86. The United Nations country team welcomed the growing acceptance by law enforcement officials of UNHCR-issued documents (UNHCR cards, Certified True Copies of UNHCR cards, Asylum Seeker Certificates and appointment cards) and the reduction in detention of refugees and asylum seekers.[108]

87. The Committee on the Elimination of Discrimination against Women was concerned that non-citizens were required to pay a deposit before they were admitted to public hospitals and that, under the Fees Act (Medical) 1951 for Foreigners, public hospitals charged them higher fees than they did Malaysian nationals for the same health-care services.[109]

88. UNHCR noted that refugees registered with UNHCR were able to benefit from reduced rates of 50 per cent off the foreigners' medical rates, but that those fees had doubled in 2016, placing the costs of some services beyond the reach of many. There was also a directive in place in public hospitals establishing that undocumented asylum seekers

and migrants who sought medical attention must be referred to the Immigration Department, which in recent years had led to significant numbers of unregistered asylum seekers being arrested and taken from hospitals directly to immigration detention centres, including women and their newborn babies.[110]

89. UNHCR stated that individuals who were unregistered continued to face a heightened risk of arrest and detention under applicable immigration law. In addition, registered individuals who were prosecuted for immigration and criminal offences, including for working without authorization, were transferred to immigration detention centres upon completion of their prison sentence. The immigration detention centres were chronically overcrowded and the conditions reportedly fell short of international and national standards. In March 2017, the Human Rights Commission of Malaysia had reported that more than 100 individuals had died in immigration detention centres in 2015 and 2016, some due to illness, possibly exacerbated by poor sanitation and food, physical abuse and a lack of medical care.[111]

90. UNHCR recommended that the Government ensure that refugees and asylum seekers were not penalized for illegal entry or stay; that detention was used only as a last resort and where necessary, for as short a period as possible and subject to safeguards to prevent arbitrary and/or indefinite detention; implement the "alternatives to detention" pilot project for unaccompanied children and establish other alternative mechanisms, such as screening and referral protocols for unregistered women, children, victims of human trafficking and other vulnerable asylum seekers and refugees; and take measures to improve the oversight of the basis for and conditions of immigration detention to ensure they met international standards, including increasing funding, and enable the Human Rights Commission of Malaysia and other bodies to undertake independent monitoring.[112]

91. The ILO Committee of Experts noted with deep concern the continued abusive practices and working conditions of migrant workers, which might amount to forced labour, such as passport confiscation by employers, high recruitment fees, wage arrears and the problem of contract substitution. It urged Malaysia to strengthen the measures to ensure that migrant workers, including migrant domestic workers, were fully protected from abusive practices and conditions that amounted to forced labour.[113]

92. The United Nations country team noted that refugees and migrants faced difficulties in seeking to register the birth of their children due, inter alia, to ignorance of the law and of the procedure, and fear of arrest.[114]

93. UNHCR mentioned that while refugee children in Malaysia were able to access informal education through non-governmental organization or community-run schools, they were unable to access the formal education system and that only 35 per cent of school-age children regularly attended informal schools. The inability of parents to work legally also meant household incomes were often insufficient to support school costs and children were at risk of being sent to work or female children being married early instead of attending school.[115]

94. UNESCO stated that Malaysia should be encouraged to intensify its efforts to provide both primary and secondary education to refugees and to offer them equal opportunities in the field of education.[116]

95. The United Nations country team expressed hope that the Government would look into the issue of refugees and asylum seekers being "shaken down" or extorted for bribes by law enforcement and other officials, including in immigration detention.[117]

6. Stateless persons[118]

96. The United Nations country team stated that the issue of childhood statelessness remained critical, and that many stateless families experienced multigenerational statelessness. It noted that the Government did not collect comprehensive data on the extent of statelessness in Malaysia, including on stateless children.[119] It welcomed the commitment of the newly elected Government to solve the problem of stateless Indians.[120]

97. UNHCR stated that challenges remained in ensuring that the births of all children were registered in accordance with the law and that legal identification documentation was

properly issued. It noted that without regular status and proper documentation, stateless and undocumented individuals were at risk of arrest and detention and had limited access to employment, public education and government supported health care.[121]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Malaysia will be available at www.ohchr.org/EN/Countries/AsiaRegion/Pages/MYIndex.aspx.
[2] For the relevant recommendations, see A/HRC/25/10, paras. 146.1–146.35, 146.38–146.46, 146.76, 146.135, 146.166, 146.174 and 146.228–146.232.
[3] See A/HRC/29/33/Add.1, para. 14.
[4] See CEDAW/C/MYS/CO/3-5, para. 59. See also A/HRC/25/57/Add.2, para. 80 (a), A/HRC/29/33/Add.1, para. 111 (a), and A/HRC/29/38/Add.1, para. 91 (a).
[5] See United Nations country team submission for the universal periodic review of Malaysia, para. 5.
[6] See United Nations country team submission, para. 7. See also CEDAW/C/MYS/CO/3-5, paras. 10 and 12 (d), preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017, and A/HRC/29/33/Add.1, para. 111 (a).
[7] UNHCR submission for the universal periodic review of Malaysia, p. 3. See also CEDAW/C/MYS/CO/3-5, para. 46, and A/HRC/29/33/Add.1, para. 111 (b).
[8] See CEDAW/C/MYS/CO/3-5, para. 34.
[9] Ibid., paras. 42 and 44. See also A/HRC/29/38/Add.1, para. 91 (b).
[10] See UNESCO submission for the universal periodic review of Malaysia, p. 6 and para. 24.
[11] See United Nations country team submission, para. 10. See also A/HRC/29/33/Add.1, para. 111 (a).
[12] For the relevant recommendations, see A/HRC/25/10, paras. 146.36, 146.48–146.49, 146.51–146.64, 146.74–146.75, 146.78 and 146.89–146.93.
[13] See UNESCO submission, para. 1.
[14] See United Nations country team submission, para. 48.
[15] See CEDAW/C/MYS/CO/3-5, paras. 11–12. See also preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.
[16] See CEDAW/C/MYS/CO/3-5, para. 12 (c).
[17] See United Nations country team submission, para. 13.
[18] Ibid.
[19] Ibid., paras. 21–23.
[20] For the relevant recommendations, see A/HRC/25/10, paras. 146.97–146.104.
[21] See CEDAW/C/MYS/CO/3-5, paras. 19–20 (a).
[22] See UNESCO submission, para. 18.
[23] See CEDAW/C/MYS/CO/3-5, para. 34.
[24] See A/HRC/29/33/Add.1, paras. 83 and 86.
[25] See http://bangkok.ohchr.org/news/press/TransgenderwomeninMalaysia.aspx.
[26] For relevant recommendations, see A/HRC/25/10, paras. 146.77, 146.105–146.115, 146.117–146.126 and 146.144.
[27] See United Nations country team submission, para. 25.
[28] Ibid., para. 17.
[29] Ibid., para. 16.
[30] Ibid., para. 18.
[31] See http://bangkok.ohchr.org/news/press/Malaysia%20Disappearance%20Christians.aspx.
[32] For relevant recommendations, see A/HRC/25/10, paras. 146.47, 146.50, 146.127 and 146.147–146.148.
[33] See United Nations country team submission, para. 19.
[34] Ibid., para. 24.
[35] See CEDAW/C/MYS/CO/3-5, para. 14 (b).
[36] See preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.
[37] See CEDAW/C/MYS/CO/3-5, paras. 23–24.
[38] See http://bangkok.ohchr.org/news/press/MalaysiaSecurityLaw.aspx.
[39] For relevant recommendations, see A/HRC/25/10, paras. 146.152–146.165 and 146.167–146.170.
[40] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15144&LangID=E.
[41] See United Nations country team submission, para. 31.
[42] See UNESCO submission, paras. 7 and 9.
[43] Ibid., paras. 19–22.
[44] See preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.

[45] See CEDAW/C/MYS/CO/3-5, para. 54.
[46] See preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.
[47] Ibid.
[48] See United Nations country team submission, para. 32.
[49] Ibid., para. 30.
[50] For relevant recommendations, see A/HRC/25/10, paras. 146.131–146.134, 146.136–146.141 and 146.143.
[51] See CEDAW/C/MYS/CO/3-5, paras. 25–26.
[52] See A/HRC/29/38/Add.1, paras. 92 (d) and 96 (d).
[53] For relevant recommendations, see A/HRC/25/10, paras. 146.217–146.220 and 146.222.
[54] See United Nations country team submission, para. 41.
[55] See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::::P13100_COMMENT_ID:3339364.
[56] See CEDAW/C/MYS/CO/3-5, para. 43.
[57] Ibid., para. 37.
[58] See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3295112.
[59] For the relevant recommendation, see A/HRC/25/10, para. 146.171.
[60] See United Nations country team submission, para. 47.
[61] Ibid., para. 40.
[62] For relevant recommendations, see A/HRC/25/10, paras. 146.79–146.80, 146.86 and 146.173.
[63] See United Nations country team submission, paras. 33 and 39.
[64] See A/HRC/25/57/Add.2, para. 80 (f).
[65] See United Nations country team submission, para. 49.
[66] For relevant recommendations, see A/HRC/25/10, paras. 146.176–146.184 and 146.186–146.190.
[67] See A/HRC/29/33/Add.1, paras. 18 and 111 (c) and (d).
[68] See CEDAW/C/MYS/CO/3-5, para. 35–36 (c).
[69] See A/HRC/29/33/Add.1, para. 111 (e).
[70] For relevant recommendations, see A/HRC/25/10, paras. 146.191 and 146.197–146.202.
[71] See UNESCO submission, para. 13.
[72] Ibid.
[73] Ibid., para. 14.
[74] See CEDAW/C/MYS/CO/3-5, para. 41.
[75] See preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.
[76] See United Nations country team submission, para. 38.
[77] For relevant recommendations, see A/HRC/25/10, paras. 146.65–146.70, 146.87, 146.94–146.96, 146.128–146.130, 146.145–146.146, 146.175 and 146.192–146.196.
[78] See CEDAW/C/MYS/CO/3-5, para. 23.
[79] Ibid., para. 22. See also A/HRC/29/33/Add.1, paras. 44–45.
[80] See CEDAW/C/MYS/CO/3-5, paras. 23–24.
[81] Ibid.
[82] Ibid., para. 29.
[83] Ibid., para. 53.
[84] Ibid.
[85] For relevant recommendations, see A/HRC/25/10, paras. 146.71–146.73, 146.116, 146.149–146.151, 146.172 and 146.185.
[86] See United Nations country team submission, para. 44.
[87] Ibid., para. 45.
[88] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3279993.
[89] See United Nations country team submission, para. 46.
[90] See CEDAW/C/MYS/CO/3-5, para. 53.
[91] See A/HRC/29/33/Add.1, para. 111 (h).
[92] See United Nations country team submission, para. 47.1.
[93] Ibid., para. 44.5.
[94] See A/HRC/25/57/Add.2, para. 80 (g).
[95] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3279993.
[96] For relevant recommendations, see A/HRC/25/10, paras. 146.204–146.208.
[97] See United Nations country team submission, para. 48.
[98] UNESCO submission, p. 6.
[99] See A/HRC/29/33/Add.1, para. 111 (w).
[100] For relevant recommendations, see A/HRC/25/10, paras. 146.88 and 146.209–146.216.

[101] See United Nations country team submission, paras. 54 and 57–58.
[102] See A/HRC/29/33/Add.1, paras. 51–52 and 111 (j).
[103] See preliminary observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Malaysia, 21 September 2017.
[104] Ibid.
[105] Ibid.
[106] For relevant recommendations, see A/HRC/25/10, paras. 146.142, 146.221 and 146.223–146.227.
[107] UNHCR submission, pp. 3–4. See also CEDAW/C/MYS/CO/3-5, para. 45, and United Nations country team submission, para. 50.1.
[108] See United Nations country team submission, para. 51.
[109] See CEDAW/C/MYS/CO/3-5, para. 39.
[110] UNHCR submission, p. 3. See also United Nations country team submission, para. 52, and CEDAW/C/MYS/CO/3-5, para. 39.
[111] UNHCR submission, p. 4.
[112] Ibid., pp. 4–5. See also A/HRC/29/33/Add.1, para. 111 (o).
[113] See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3279400.
[114] See United Nations country team submission, para. 44.1.
[115] UNHCR submission, p. 3. See also United Nations country team submission, para. 53.
[116] See UNESCO submission, para. 15.
[117] See United Nations country team submission, para. 53.
[118] For the relevant recommendation, see A/HRC/25/10, para. 146.203.
[119] See United Nations country team submission, para. 44.2.
[120] Ibid., para. 3.
[121] UNHCR submission, p. 2.